IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 19561 of 2007(D)

PETITIONER:

HUSSAIN,S/O.ABOOBACKER,KADAMKUNIYIL,
VEENNAKKODE,THAZHEKODE VILLAGE,KOZHIKODE.

BY ADV. SRI.A.K.HARIDAS

RESPONDENTS:

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1. STATE OF KERALA,REPRESENTED BY
SECRETARY TO THE GOVERNMENT,DEPARTMENT
OF REVENUE,THIRUVANANTHAPURAM.

2. REVENUE DIVISIONAL OFFICER,
REVENUE DIVISION OFFICE,KOZHIKODE.

3. HUSSAIN,S/O.UNNIMOYI HAJI,THUZHAKODE
VILLAGE,KOZHIKODE.

BY GOVERNMENT PLEADER SRI. S.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J

W.P.(C).No. 19561/2007

Dated this 26th day of June, 2007

JUDGMENT

The petitioner challenges Ext.P3 order by which the Revenue Divisional Officer has found that the petitioner has unauthorizedly filled up paddy lands and, therefore, he is liable to restore the land to its original position. The contention of the petitioner is that RDO has no jurisdiction to pass Ext.P3 order. According to the petitioner, Ext.P3 is neither an order under Section 133 of Cr.P.C nor an order under the Land Utilization order. Therefore, the matter is in the nature of civil dispute which cannot be decided by the Revenue Divisional Officer, is the submission made by the learned counsel for the petitioner.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader. Ext.P1 is the show cause notice which preceded Ext.P3 order. That specifically states that the petitioner has violated the provisions of the Kerala Land Utilisation Order and he shall show cause why appropriate proceedings shall not be taken against the said act of the petitioner in accordance with that law. Ext.P3 order

specifically states that the petition on which the order has been passed, alleged that the petitioner filled up paddy lands as a result of which the free flow of water has been obstructed causing destruction of cultivation in nearby lands. It also specifically refers to a report of the Village Officer whereby the petitioner was found to have filled up paddy lands as a result of which the free flow of water has been obstructed. It is on a finding of these facts, that the RDO has passed Ext.P3 order. Therefore, although Kerala Land Utilization order has not been specifically referred to Ext.P3, it is abundantly clear that Ext.P3 has been passed under the Kerala Land Utilization order. That being so, the petitioner has got an alternate remedy by way of an appeal as provided under the Kerala Land Utilization order itself.

3. In sch circumstances, I am not inclined to entertain this writ petition at this juncture. Accordingly, the same is dismissed without prejudice to the right of the petitioner to file an appeal against Ext.P3 order.

S.SIRI JAGAN
JUDGE

mrcs